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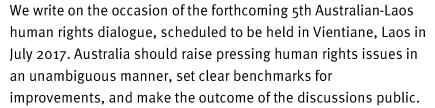
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Australia – Laos Human Rights Dialogue **Human Rights Watch Submission** May 2017





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Laos continues to be ruled through a one-party system, the Lao People's Revolutionary Party (LPRP). Though the government encourages all citizens to vote freely, votes are handled by village chieftains or councils who work with government officials. The formation of other political parties is subject to criminal prosecution. In March 2016, Laos elected Dr. Thongloun Sisoulith as the new prime minister. Prime Minister Thongloun has actively addressed the impact of environmental destruction, but has remained silent on other human rights issues facing Laos.

The government of Laos has not taken significant steps to remedy its poor human rights record and severely restricts freedom of speech, association, and peaceful assembly. The lack of fair trials of criminal suspects, widespread judicial corruption, and entrenched impunity for human rights violations are continuing problems.

Since 1974, Laos has ratified seven major international treaties: the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1974, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1981, the Convention on the Rights of the Child (CRC) in 1991, the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2007, the Convention on the Rights of Persons with Disabilities (CRPD) in 2009, the International Covenant on Civil and Political Rights (ICCPR) in 2009, and the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT) in 2012. To date, the Lao government has been reviewed by only three treaty bodies. Its first reports to CAT, the ICCPR, and ICESCR

https://www.state.gov/documents/organization/265560.pdf (accessed May 28, 2017).

¹ US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices for 2016 – Laos Human Rights Report," 2016,

are all overdue.² To date, the government of Laos has invited only two UN special rapporteurs, the Special Rapporteur on freedom of religion or belief in 2010 and the Special Rapporteur on the sale of children, child prostitution and child pornography in 1999, to visit the country.

Human Rights Watch recommends that Australia focus on (1) freedom of speech, association, and assembly; (2) enforced disappearances; (3) freedom of religion; (4) drug detention centers; and (5) women and girls rights.

Freedom of Speech, Association, and Assembly

Laos has failed to protect the rights to freedom of speech, press, and assembly and is taking legislative measures to further entrench a culture of censorship and government control. All TV, radio, and printed publications are strictly monitored and controlled by the government. The constitution prohibits all mass media activities that run contrary to "national interests" or "traditional culture and dignity." While the constitution also recognizes that citizens of Laos have fundamental freedoms of speech, press, assembly, association, and demonstration, article 44 of the constitution severely restricts those rights by requiring that their exercise does not run contrary to the penal code.

The government has arbitrarily arrested and detained civil society activists and those deemed critical of the government. The penal code contains broad limitations that prohibit "slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state." This effectively gives authorities sweeping powers to limit basic rights and fundamental freedoms for anyone they deem critical of the government and the authorities. Harsh prison sentences, ranging from one to five years for anti-government propaganda, and up to 15 years for journalists who fail to file "constructive reports" or who seek to "obstruct" the work of the government, are provided for in article 59.

The government's repressive control over the media has fueled the expansion of internet and social media usage. As of 2015, 18 percent of the population was using the internet and nearly half a million people were accessing Facebook for news.³ In response, in July 2015, the government enacted the "Law on Prevention and Combating of Cyber Crime," which criminalizes vaguely defined web content. Citizens who share information, images,

² Civil Rights Defenders, "Laos' International Human Rights Obligations and Commitments," August 31, 2016, https://www.civilrightsdefenders.org/files/Laos-international-human-rights-obligations-and-commitments CRD final.pdf (accessed May 28, 2017).

³ Civil Rights Defenders, "Laos' International Human Rights Obligations and Commitments," August 31, 2016.

or animations which the government deems to "distort truth" are subject to "re-education and disciplinary measures."

Government authorities are becoming more attentive to criticism on social media. In 2015, authorities detained a woman without an arrest warrant after she posted a photo on Facebook of police officers extorting money from her brother in Xayaburi province after a traffic violation. That same year, police officers detained a government worker after she posted information about lucrative land concessions provided by Luang Prabang officials to Chinese investors for development around one of the country's most famous landmarks, the Khouangxi waterfalls.

Ahead of hosting the 2016 Association of Southeast Asian Nations (ASEAN) Summit, the government of Laos began to monitor social media usage closely, and detained citizens for posts it felt threatened the image of the country. Laos refused to host the ASEAN People's Forum in conjunction with the summit, which is the forum that usually allows civil society members to highlight human rights issues. During the forum, which was moved to Timor-Leste, the government handpicked civil society representatives and told them to avoid politically sensitive issues.⁶

The government of Laos not only monitors and suppresses free speech by citizens in the country, but also by those living abroad. In May 2017, three Lao workers were sentenced to prison terms of between 12 and 20 years in a secret trial after criticizing the Lao government while working in neighboring Thailand. Somphone Phimmasone, 29, Lodkham Thammavong, 30, and Soukane Chaithad, 32, were arrested and held incommunicado for over two months after returning to Laos to renew their passports in March 2016.⁷ The three workers posted messages critical of corruption, deforestation, and human rights violations in Laos. They also participated in a protest against the Lao government outside the Lao

⁴ Law on Prevention and Combating Cyber Crime, No. 61/NA, July 15, 2015, art. 57, https://www.laocert.gov.la/ftp_upload/Cyber_Crime_Law_EnVersion.pdf (accessed May 28, 2017).

⁵ Radio Free Asia, "Lao Woman Detained After Posting Police Extortion Photos to Facebook," May 28, 2015, http://www.rfa.org/english/news/laos/detention-05282015140757.html (accessed May 28, 2017).

⁶ Radio Free Asia, "Lao Government Muted Representatives to ASEAN People's Forum," August 9, 2016, http://www.rfa.org/english/news/laos/lao-government-muted-08092016165754.html (accessed May 28, 2017).

⁷ Amnesty International, "Laos: Further Information: Three Activists Sentenced to Prison in Secret Trial: Soukan Chaithad, Somphone Phimmasone, and Lodkham Thammavong," May 17, 2017, https://www.amnesty.org/en/documents/asa26/6270/2017/en/ (accessed May 28, 2017).

embassy in December 2015.8 The three workers are currently incarcerated in Samkhe prison in Vientiane.

Laos has also tightened government control in the operating guidelines for Non-Profit Associations (NPAs), civil society organizations organized by Lao people, as well as the decree overseeing the activities of international nongovernmental organizations. These restrictions set out greater requirements to provide notification and seek permission to receive or spend international development funds; limitations on areas of permitted work; limitations or prohibitions on any speech or activities deemed to offend government defined notions of peace and social order. The result is likely to be greater bureaucratic scrutiny over programs and budgets of nonprofit groups working in development and other grassroots projects in the country.

The Ministry of Education tightly controls education in Laos—university professors are not allowed to teach or write about politically sensitive subjects and students are not allowed to organize or demonstrate. Participation in such acts is punishable by imprisonment for one to five years, or longer.9 On October 26, 1999, the government of Laos arbitrarily detained five former student leaders for pro-democracy activities: Khamphouvieng Sisa-at, Keochay, Bouavanh Chanhmanivong, Thongpaseuth Keuakoun, and Sengaloun Phengphanh. They were convicted of "generating social turmoil and endangering national security" and sentenced to 20-year terms."¹⁰

Khamphouvieng died in prison owing to food deprivation and inadequate medical care. Keochay has allegedly been released, but his family remain unaware of his whereabouts. The fate of Bouavanh remains unknown.¹¹ On January 25, 2017, Thongpaseuth and Sengaloun were released from Samkhe prison, according to government officials.¹² However, there have been no updates on their whereabouts.

⁸ Voice of America, "Rights Groups Condemn Harsh Prison Sentence Against Lao Worker," May 18, 2017, https://www.voanews.com/a/rights-groups-condemn-harsh-prison-sentence-against-lao-worker/385563.html (accessed May 28, 2017).

⁹ US State Department, "Country Reports on Human Rights Practices for 2016 – Laos Human Rights Report," 2016, https://www.state.gov/documents/organization/265560.pdf (accessed May 28, 2017).

¹⁰ International Federation for Human Rights (FIDH), *Free Former Student Leaders Arbitrarily Detained for 17 Years*, press release, October 26, 2016, https://www.fidh.org/en/region/asia/laos/free-former-student-leaders-arbitrarily-detained-for-17-years (accessed May 28, 2017).

¹¹ International Federation for Human Rights (FIDH), *Free Former Student Leaders Arbitrarily Detained for 17 Years*, press release, October 26, 2016.

¹² US State Department, "Country Reports on Human Rights Practices for 2016 – Laos Human Rights Report," 2016, https://www.state.gov/documents/organization/265560.pdf (accessed May 28, 2017).

During the upcoming dialogue, Australia should call on the government of Laos to:

- Cease the harassment and arbitrary arrest and detention of human rights defenders, independent journalists, social activists, and worker advocates.
- Immediately and unconditionally release Somphone Phimmasone, Lodkham Thammavong, and Soukane Chaithad detained in Samkhe prison in Vientiane.
- End government control of the media, and reform licensing rules to allow media organizations to function freely and without fear of reprisal.
- Revise the Internet Decree to ensure that it aligns with international standards protecting freedom of speech and expression.
- Revise the draft decrees governing the functioning of local and international nongovernmental organizations, ensuring that they can exist independently and without government interference.

Enforced Disappearances

Laos has signed, but not ratified, the International Convention for the Protection of all Persons from Enforced Disappearance. Enforced disappearances violate a range of fundamental rights protected under international law, including prohibitions against arbitrary arrest and detention, torture and other cruel, inhuman or degrading treatment, and extrajudicial execution. The Lao government has an obligation to conduct a transparent, thorough, and impartial investigation in all cases of alleged enforced disappearances, to resolve them, and bring those responsible to justice.

The Lao government has failed to make progress on at least 10 cases of enforced disappearance. Emblematic of the government's failure to act in line with its international obligations is the case of prominent civil society activist Sombath Somphone. Sombath was detained at a police checkpoint and subsequently disappeared on the evening of December 15, 2012. Close-circuit television (CCTV) footage obtained by Sombath's family from the Vientiane police shows that Sombath's jeep was stopped by the police at a police post. The police then took Sombath into the checkpoint, after which he was escorted to a different vehicle and driven away.

Lao authorities have repeatedly denied that the government took Sombath into custody and have failed to conduct a serious investigation into his enforced disappearance or provide any other credible information on his fate or whereabouts. Furthermore, the government has repeatedly rejected all offers of technical assistance for the investigation from various governments, including offers to analyze the original CCTV footage to assist with determining the identities of the individuals in the videotape or gathering additional

details of the vehicles that were involved.

In another instance, the Lao government has failed to make progress in the case of Sompawn Khantisouk, the owner of two ecotourism businesses in Luang Namtha province, who was forcibly disappeared on January 23, 2007. Sompawn received a call from a local police officer to visit the police station concerning an alleged arson attack on his home the previous day. Riding his motorcycle, Sompawn received another phone call from the same police officer.

A few minutes later, as he was driving to the police station, witnesses saw an SUV signal to Sompawn to pull his motorcycle over. Witnesses stated that four men wearing police uniforms then forced Sompawn into the car and drove away. A rudimentary police investigation ensued that focused on discrediting the witnesses, and concluded without further evidence that Sompawn's disappearance was the result of an unspecified personal or business conflict.

Laos is obligated under international human rights law to prevent and remedy any enforced disappearances. Despite widespread calls for accountability, both regionally and internationally, questions about enforced disappearances have been met with denial or silence by the government of Laos.

During the upcoming dialogue, Australia should call on the government of Laos to:

- Conduct a transparent, thorough, and impartial investigation into all pending cases of enforced disappearances and ensure that those responsible for the disappearances are held to account.
- Disclose the fate or whereabouts of Sombath Somphone and Sompawn Khantisouk, and others forcibly disappeared.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and enact appropriate implementing legislation.

Religious Freedom

Article 43 of the Lao constitution grants citizens "the right and freedom to believe or not believe in religions," yet the government remains suspicious of non-Buddhist religious groups. In 2002, the Decree on Religious Practice was issued as the main legal document that defines rules for religious practice and institutionalizes the government's role as the final decision-maker regarding permissible religious activities. Local authorities sometimes use the decree's various conditions to restrict certain aspects of religious practice. The treatment of religious practitioners varies by region, religion, and ethnic

group. The government of Laos remains suspicious of religious minorities, particularly Protestant Christians. 13

Protestant Christians, who are often not ethnically lowland Lao, are suspected of having allegiances to the West and the United States rather than to the Lao government. In the north, in historically sensitive areas such as Luang Prabang and Xieng Khouang provinces, and in central areas, such as Khammouane province, Protestants are among the most severely repressed. They face harassment by police and government officials, including intimidation of family members, pressure to renounce their Christian faith, and forced evictions from their villages.

In February 2015, five Christians in Savannakhet province were convicted of "illegally practicing medicine" and imprisoned for nine months after praying for a sick woman who eventually died. They were later released after paying a fine. In September 2015, two Christians in Khammouane province were detained for "spreading their faith" to family members. Police had been monitoring the men for several years. Earlier that year, police in the same province detained and threatened to imprison four Christians if they didn't renounce their Christian faith. In December 2016, seven Christian families in Luang Prabang province had their identification cards, family books, and land titles confiscated by police and were forced to leave their village after they refused to renounce their faith. Other reports include arson attacks on Christians, government authorities seizing harvested crops from Christians, and beatings for celebrating Christmas and refusing to renounce the Christian faith.

During the upcoming dialogue, Australia should call on the government of Laos to:

- Stop the arbitrary arrest and detention of Christians for practicing their faith.
- Carry out investigations into allegations of arbitrary detention and cruel, inhuman or degrading treatment or punishment against Christian worshippers and other religious minorities.

¹³ US State Department, Office of International Religious Freedom, "Laos 2015 International Religious Freedom Report," 2015, https://www.state.gov/documents/organization/256329.pdf (accessed May 28, 2017).

¹⁴ Radio Free Asia, "Lao Authorities May Release Christians Jailed for 'Illegally Practicing Medicine'," February 20, 2015, http://www.rfa.org/english/news/laos/christians-may-be-released-from-jail-02202015164216.html (accessed May 28, 2017).

¹⁵ Radio Free Asia, "Lao Authorities May Release Christians Jailed for 'Illegally Practicing Medicine'," February 20, 2015.

¹⁶ Open Doors UK, "Laos: Christmas Time Persecution in Luang Prabang," December 22, 2016, press release, http://www.opendoorsuk.org/news/stories/laos 161222.php (accessed May 28, 2017).

Drug Detention Centers

The arbitrary detention of people suspected of using drugs, along with beggars, homeless people, children, and people with mental illnesses in compulsory drug detention centers across Laos remains of grave concern. As of mid-2011 (the most recent year for which data is publicly available), there were at least eight such centers across the country, of which the Somsanga detention center on the outskirts of Vientiane is the oldest and largest. Persons sent to Somsanga (as well as to other drug detention centers) are detained administratively, without judicial due process or oversight, and no mechanism for appeal. None of the persons whom Human Rights Watch interviewed had seen a lawyer or been sent to a court prior to their detention in Somsanga.

Human Rights Watch found that detainees at the Somsanga center are locked in cells inside barbed wire compounds. Former detainees told Human Rights Watch that they were held for periods of three months to more than a year. Police who guard the facility's main gate are responsible for security and are a constant presence among detainees. Detainees live in a punitive and heavily controlled environment. Those who try to escape are sometimes brutally beaten by "room captains"—trusted detainees whom police and center staff designate to play a central role in the daily control of other detainees, including serving the center's as adjunct guards and punishing detainees who infringe center rules. One former detainee told Human Rights Watch that "room captains" beat detainees who had attempted escape "until they were unconscious." The detainee stated that guards witnessed the beatings and encouraged the "room captains." Former detainees also reported being punished by being tied up in the sun for hours without food or water.

Somsanga offers little effective, evidence-based treatment for drug addiction to those who need it. Confinement is Somsanga's central operating principle: most detainees remain in locked cells inside compounds with high walls topped with barbed wire. Human Rights Watch found that Somsanga holds most of its detainees against their will. Police or village militia (tamnautbaan) detain and bring people to Somsanga. Other detainees enter because their family members "volunteer" them to go out of a mistaken belief that the center offers therapeutic treatment, or because they feel pressure from authorities to help make their village "drug free." According to former detainees, street children are among those detained in Somsanga. Children are entitled to additional protections against arbitrary detention. However, a number of former detainees described being detained alongside children 10 years old or younger.¹⁷

¹⁷ Human Rights Watch, *Somsanga's Secrets: Arbitrary Detention, Physical Abuse, and Suicide inside a Lao Drug Detention Center* (New York: Human Rights Watch, 2011),

The treatment of individuals in compulsory drug detention centers violates a wide range of human rights, including the right to freedom from torture and cruel, inhuman and degrading treatment; the right to freedom from arbitrary arrest and detention; the right to a fair trial; the right to privacy; and the right to the highest attainable standard of health. Despite reports of arbitrary detention and cruel, inhuman or degrading treatment or punishment at Somsanga, the Lao government has not investigated these reports, held any person responsible or taken steps to close the center down. In March 2012, 12 UN agencies—the International Labor Organization, UN Office of the High Commission for Human Rights, UN Development Program, UNFPA, UNHCR, UNICEF, UNODC, UN Women, World Food Programme, WHO, and UNAIDS— issued a joint statement condemning compulsory drug detention centers in the region and calling for their immediate closure.

During the upcoming dialogue, Australia should call on the government of Laos to:

- Stop the arbitrary arrest and detention of people deemed "undesirable" in drug detention centers.
- Close all drug detention centers and release current detainees.
- Carry out investigations into allegations of arbitrary detention and cruel, inhuman or degrading treatment or punishment in Somsanga and other drug detention centers.
- Expand access to voluntary, community-based drug dependency treatment and ensure that such treatment is medically appropriate and comports with international standards under the Ministry of Health.

Women and Girls

Laos has not implemented important UN treaty-body recommendations to improve redress for women and girl who endure domestic violence. This section outlines the barriers faced by victims of domestic violence.

In March 2016, the United Nations Population Fund (UNFPA) released a report on violence against women in Laos. The report revealed that one in seven women has experienced physical or sexual violence from their partners at least once in their lifetime.¹⁸ Nearly half

 $[\]frac{https://www.hrw.org/report/2011/10/11/somsangas-secrets/arbitrary-detention-physical-abuse-and-suicide-inside-lao-drug.}{}$

¹⁸ "Landmark Report: Violence against women a 'hidden scourge' in Lao PDR," United Nations Population Fund press release, March 10, 2016, http://lao.unfpa.org/news/landmark-report-violence-against-women-%E2%80%98hidden-scourge%E2%80%99-lao-pdr-o (accessed May 28, 2017).

of women experiencing violence do not tell anyone. 19 Many women living in rural or remote areas remain unaware of their rights. 20

In 2014, the Law on Preventing and Combatting Violence Against Women and Children was passed.²¹ However, this law falls short of international standards and good practice as it lacks clarity on the roles and responsibilities of the police when violence is reported, and clear procedures for redress.

Even though the 2014 law improves the prevailing legal options for victims by allowing them to choose whether to settle the case or have the matter brought before courts, the law still lacks clarity.²² Before this law was enacted, women's options of approaching the police were severely curtailed, only allowing those who experienced a "serious" impact to approach the police. In all other cases, the victim's complaint was supposed to be settled locally. The most widely used policy for handling disputes is through the informal "Harmonious Village Policy" with the village chief heading the mediation process in domestic issues.²³

Women's awareness about the 2014 law and their legal rights remains poor. This leaves victims at a disadvantage since deep-rooted patriarchal attitudes and traditional gender roles are the norm, especially among many ethnic groups where a woman must move into her husband's village. Women in abusive situations often remain silent to prevent bringing shame to the village and to avoid retaliation from the husband's family.²⁴ Even where

¹⁹ National Commission for the Advancement of Women, Lao PDR, "Summary Report a Study on Violence against Women in Lao PDR," 2014-2015,

http://www.la.one.un.org/images/publications/Lao PDR Violence Against Women Summary Report.pdf (accessed May 28, 2017), p. 9

²⁰ United Nations Committee on the Elimination of Discrimination against Women, "Consideration of Reports Submitted by States Parties Under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Combined Initial, Second, Third, Fourth and Fifth Periodic Reports of States Parties, Lao People's Democratic Republic," CEDAW/C/LAO/1-5, August 18, 2003, https://documents-dds-ny.un.org/doc/UNDOC/GEN/No3/469/53/PDF/No346953.pdf?OpenElement (accessed May 30, 2017) p. 50

²¹ Law on Preventing and Combatting Violence against Women and Children, No. 56 of 2014, https://un-act.org/publication/view/lao-pdrs-law-on-preventing-and-combating-violence-against-women-and-children-2014/(accessed May 30, 2017).

²² Law on Preventing and Combatting Violence against Women and Children, art. 31 read with art. 47.

²³ US State Department, "Country Reports on Human Rights Practices for 2016 – Laos Human Rights Report,"

2016, https://www.state.gov/documents/organization/26556o.pdf (accessed May 28, 2017).

²⁴ National Commission for the Advancement of Women, Lao PDR, "Summary Report a Study on Violence against Women in Lao PDR," 2014-2015, pp. 88, 91.

women choose to file complaints with authorities, they rarely receive legal assistance after filing complaints against their abusers.²⁵

In December 2015, the Lao National Assembly approved the Law on Anti-Trafficking in Persons, which was publicized in February 2016. However, Laos continues to be a transit country for sex-trafficked girls and women from Vietnam and China.²⁶ The sex trafficking of Lao girls has expanded into China, where marriage proposals from Chinese men acting as wealthy business owners lure girls into working in brothels and prostitution rings.²⁷

During the upcoming dialogue, Australia should call on the government of Laos to:

- Raise awareness regarding the 2014 law governing violence against women and children and take measures to improve implementation.
- Periodically report on the implementation of the 2014 law governing violence against women and children.
- Establish and adequately support legal, health, and social services, including shelters, for women who are victims of violence.
- Undertake a widespread program of public awareness and public education regarding gender equality.
- Collect and publicize comprehensive data on sexual and domestic violence and share this with the public.
- Produce guidelines and conduct appropriate training programs for all law enforcement, health, and education professionals regarding gender equality and to implement the 2014 law governing violence against women and children.
- Increase efforts to prosecute and punish sex trafficking and public officials complicit in trafficking.
- Improve transparency by collecting information on government anti-trafficking activities, including case details and financial allocations, and share this information among ministries and with nongovernmental stakeholders.

²⁵ United Nations Women Watch, "Report on Rural Domestic Violence and Gender Research: Lao PDR," http://www.un.org/womenwatch/daw/vaw/ngocontribute/CUSO.pdf (accessed May 28, 2017), p. 3. https://www.state.gov/documents/organization/25888o.pdf (accessed May 28, 2017). https://www.state.gov/documents/organization/25888o.pdf (accessed May 28, 2017).